

Department of Energy

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(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption); and

(3) A preliminary compliance plan, including to the extent available, the information required under § 503.12.

(c) *Final Compliance Plan.* Before an exemption may become effective, the petitioner must submit and OFE must approve a final compliance plan as required by § 503.12.

(d) *Duration.* This temporary exemption may be granted for a period of up to ten (10) years. Unless the petitioner requests otherwise, any temporary exemption from the fuel use prohibitions of the Act for the future use of synthetic fuels will commence on the date of commercial operation of the facility.

NOTE: Contracts based on the anticipated successful demonstration of a development program and/or the anticipated economic feasibility of a synthetic fuels facility, will generally be sufficient to meet the "binding contract" requirements for this exemption.

[46 FR 59903, Dec. 7, 1981; 47 FR 15315, Apr. 9, 1982; 54 FR 52894, Dec. 22, 1989]

§ 503.25 Public interest.

(a) *Eligibility.* Section 211(c) of the Act provides for a temporary public interest exemption. To qualify, a petitioner must demonstrate that:

(1) The unit will be capable of complying with the applicable prohibitions at the end of the proposed exemption period;

(2) The granting of the exemption would be in accord with the purposes of the Act and would be in the public interest; and

(3) No alternate power supply exists, as required under § 503.8 of these regulations.

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Substantial evidence to corroborate the eligibility requirements identified above; and

(2) The anticipated duration of the circumstances which constitute the basis for the exemption.

(c) *Certification alternative.* If the petitioner requires use of oil or natural gas in a unit, during the construction of an alternate-fuel fired unit, the petitioner may substitute, in lieu of the evidentiary requirements of paragraphs (b)(1) and (2) of this section:

(1) A duly executed certification, including the requested duration of the exemption, that the unit will be operated on oil or natural gas only during the construction of an alternate fuel fired unit to be owned or operated by the petitioner; and

(2) Exhibits containing the basis for the certifications required under paragraph (c)(1) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption).

(d) *Duration.* This temporary exemption, taking into account extension and renewals, may not exceed 5 years.

[46 FR 59903, Dec. 7, 1981, as amended at 54 FR 52894, Dec. 22, 1989]

Subpart D—Permanent Exemptions for New Facilities

§ 503.30 Purpose and scope.

(a) This subpart implements the provisions contained in section 212 of the Act with regard to permanent exemptions for new facilities.

(b) This subpart establishes the criteria and standards which owners or operators of new powerplants and installations who petition for a permanent exemption must meet to sustain their burden of proof under the Act.

(c) All petitions for permanent exemptions for new facilities shall be submitted in accordance with the procedures set out in part 501 of this chapter and the applicable requirements of part 503 of these regulations.

§ 503.31 Lack of alternate fuel supply for the first 10 years of useful life.

(a) *Eligibility.* Section 212(a)(1)(A)(i) of the Act provides for a permanent exemption due to lack of an adequate and reliable supply of alternate fuel within the first 10 years of useful life of the proposed unit. To qualify, a petitioner must certify that:

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(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the unit;

(2) Such a supply is not likely to be available within the first 10 years of useful life of the proposed unit;

(3) No alternate power supply exists, as required under § 503.8 of these regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of these regulations; and

(5) Alternative sites are not available, as required under § 503.11 of these regulations.

(b) *Evidence required in support of a petition.* A petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) Environmental impact analysis, as required under § 503.13 of these regulations; and

(4) Fuels search, as required under § 503.14 of these regulations.

[46 FR 59903, Dec. 7, 1981, as amended at 54 FR 52895, Dec. 22, 1989]

§ 503.32 Lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

(a) *Eligibility.* Section 212(a)(1) (A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. To qualify a petitioner must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with

the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of these regulations;

(3) No alternate power supply exists, as required under § 503.8 of these regulations.

(4) Use of mixtures is not feasible, as required under § 503.9 of these regulations; and

(5) Alternative sites are not available, as required under § 503.11 of these regulations.

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) Environmental impact analysis, as required under § 503.13 of these regulations;

(4) Fuels search, as required under § 503.14 of these regulations; and

(5) All data required by § 503.6 (cost calculation) of these regulations necessary for computing the cost calculation formula.

[46 FR 59903, Dec. 7, 1981, as amended at 47 FR 15315, Apr. 9, 1982; 54 FR 52895, Dec. 22, 1989]

§ 503.33 Site limitations.

(a) *Eligibility.* Section 212(a)(1)(B) of the Act provides for a permanent exemption due to site limitations. To qualify for such an exemption, a petitioner must certify that:

(1) One or more specific physical limitations relevant to the location or operation of the proposed facility exist which, despite good faith efforts, cannot reasonably be expected to be overcome within five years after commencement of operations;